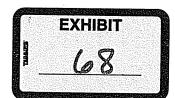
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IN THE UNITED STATES DISTRICT COURT FOR THE
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2
                   NORTHERN DISTRICT OF OKLAHOMA
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4
     W. A. DREW EDMONDSON, in his )
     capacity as ATTORNEY GENERAL )
5
     OF THE STATE OF OKLAHOMA and )
6
     OKLAHOMA SECRETARY OF THE
     ENVIRONMENT C. MILES TOLBERT,)
     in his capacity as the
7
     TRUSTEE FOR NATURAL RESOURCES)
     FOR THE STATE OF OKLAHOMA,
9
                  Plaintiff,
                                    )4:05-CV-00329-TCK-SAJ
10
     vs.
11
     TYSON FOODS, INC., et al,
12
                  Defendants.
13
                       VOLUME II OF THE VIDEOTAPED
14
     DEPOSITION OF BERTON FISHER, PhD, produced as a
15
     witness on behalf of the Defendants in the above
16
     styled and numbered cause, taken on the 4th day of
17
     September, 2008, in the City of Tulsa, County of
18
     Tulsa, State of Oklahoma, before me, Lisa A.
19
     Steinmeyer, a Certified Shorthand Reporter, duly
20
      certified under and by virtue of the laws of the
21
22
      State of Oklahoma.
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25
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1	seriously injured in a motor scooter accident. He	
2	was thrown over a car and landed on his head	
3	basically.	
4	Q All right. In your non-medical opinion,	
5	there's been some cognitive effect that Mr. Miller 11:32AM	
6	has suffered?	
7	A The observations that I made of Mr. Miller as	
8	a friend and someone I'm very fond of was that after	
9	those incidents or in the course of time, his	
10	behavior became a little erratic. 11:33AM	
11	Q Okay. Now, since you left the employment with	
12	Gardere & Wynne, you have served as a private	
13	consultant within two firms, Exponent, which is a	
14	national scale company, and then more recently	
15	Lithochimeia, which is your own company; correct? 11:33AM	
16	A That's correct.	
17	Q During this period post Gardere & Wynne, what	
18	percentage of your work is associated with legal	
19	matters? They don't have to be in litigation but	
20	they're in legal matters. 11:33AM	
21	A Well, setting aside the University of Tulsa	
22	employment, virtually all, probably 95 percent.	
23	Q Okay. You made some comments yesterday	
24	explaining your expertise, and I gather from what	
25	you've said that you have been engaged in one 11:34AM	

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1	A Oh, when. Well, when they clean out the	
2	house, which is typically based upon looking at the	
3	ODAFF records. We're looking at this as a	
4	population of everybody who is regulated as a	
5	poultry grower and everybody who is spreading for a	05:18PM
6	limited time period from the late 1990s forward,	
7	they're spreading beginning to spread this	
8	material from the data dominantly February, March,	
9	April, May, June, with the major portion of it	
10	taking place in March and April.	05:18PM
11	Q Okay. I think you started to answer my	
12	question when you said relatively close to when they	
13	clean out, an individual grower may land apply. Did	
14	you do any analysis about when they would actually	
15	spread their litter, what factors determined litter	05:19PM
16	application, when?	
17	MR. GARREN: Object to form.	
18	A Okay. This material is typically put out	
19	during the period where nitrogen that's present in	
20	it will do the most good in terms of germinating	05:19PM
21	forage. They might be hampered in spreading this	
22	material during wet conditions because you can't get	
23	trucks out into the field. There would be an issue	
24	with respect to the availability of clean-out	
25	contractors. I mean, those are all kind of factors.	05:19PM

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